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THE

RECENT ATTEMPT

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CONSTITUTIONAL PROVISIONS

IN FAVOUR OF

RELIGIOUS FREEDOM,

CONSIDERED IN REFERENCE TO THE

TRUST CONVEYANCES OF

Hanover Street Church.

BY A LAYMAN.

John Lowell

BOSTON:
PUBLISHED BY WELLS AND LILLY.

1828.

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Feb 12, 1877

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THE RECENT ATTEMPT, &c.

In laying before the publick this ingenious attempt of the clergy of the Orthodox party in Massachusetts, to resume the power of which the increasing light of two centuries had gradually deprived them, I am not conscious that I am influenced by any other motive than a wish to preserve to the laity their just and legal rights; rights given to them by God, and guarantied to them by his revelation. I am ready to admit that I am what is called a rational Christian; but if I knew of any attempt on the part of the liberal clergy to usurp powers which can only be lawfully exercised by laymen, I would as readily expose the project to publick indignation. That the publick may fully comprehend the nature and design of the extraordinary attempt made to bind to all future generations, the descendants of several thousand people in this city, and to effect by the forms of law, what the inventors feel conscious they could not produce by eloquence or the force of truth, it will be necessary that I should give a brief sketch of the history of Christians, so far as it respects the most valuable of their rights, the right of thought. It is a matter susceptible of perfect proof, that during the apostolick age and the two which immediately followed it, the liberty, freedom of thought and entire equality, which seem to be among the most distinguished princi-

ples of the Gospel, were felt, acknowledged, and in practice admitted.

The new Gentile convert, still under instruction, called the Catechumen, was the only exception, and a reasonable exception it was, because no man could be said to be a Christian, till he understood what Christianity teaches.

So long as the Christians were a persecuted sect, this entire equality,—founded upon the eminently Christian graces of humility and charity subsisted. But when the Roman emperour and his empress embraced Christianity, and the fashion of the court and the swords of the legions were the instruments of conversion, these fundamental principles of Christianity, entire equality among the lay and clerical brethren, and the enjoyment of equal privileges, disappeared. The simple system of Christianity so delightfully displayed in the life and language of our Saviour and his apostles, was not suited to the taste of the emperour who had been sovereign pontiff under the gorgeous and showy but horrible system of heathen mythology. There was at once formed a complete alliance between church and state. The despot raised the humble teacher of Christ into the rank of nobility—wealth and titles were lavished upon him. It was not surprising, that dazzled by this elevation and corrupted by wealth, he should feel grateful to the hand which had thus exalted him, and (forgetful of his Divine Master) should conspire with him in the oppression and degradation of his poor flock. Such is the history, and the unvarnished history of Christianity. The laity sunk into slaves—slaves of the basest sort—mental slaves—not daring to think—even deeming it a crime to think—Is this not strictly true? Where is the bold man who will deny it? Yet it is true, as I believe that this degradation of the human mind is considered justifiable, in Boston, in the nineteenth century.

Such at least are my own views of the legal instruments invented and devised for Hanover Street Church. The Christian publick will however judge for themselves; they will take nothing upon my simple assertion. I ask them simply to look at the facts, and to disregard any colouring which may proceed from my zeal, in favour of what I believe to be among the most vital parts of the Christian system.

To return to our history of the abuses of Christianity. The poor teacher of Christianity having laid aside his scrip and his staff and assumed his scarlet and purple robes—invested with unlimited ecclesiastical power—being created the sovereign disposer of spiritual gifts, as the ages grew more and more dark, and learning and true religion disappeared, being the sole depositary of the scriptures, which as Christianity spread into the west of Europe, were as to these nations enveloped in a foreign language, soon acquired as despotick a power over the prince as he had long exercised over the subjects. Hence arose those monsters in the Christian church, the Roman pontiff and the Grecian patriarch. For nearly twelve centuries these ecclesiastical despots divided the sovereignty with the civil rulers, and vied with them in the debasement of the human mind. With the revival of letters, and by the aid of the art of printing, the human intellect recovered some of its rights. The first triumph of returning knowledge was achieved at the expense of ecclesiastical despotism. The Pope, that proud pontiff who had given law to kings and people, felt the first shock. The reformation took place—but what a reformation ! ! The first substitution in Germany was the power of a feudal prince, and in England, the first defender of the Protestant church, was that mild prince of immaculate memory, Henry the VIII. He declared himself the sovereign pontiff of England, and a tyranny practically greater than that of Rome was erected on the ruins of the papal power ; protestantism was a mere name under his bloody auspices; under his catholick daughter, Mary, the feeble light of protestantism was nearly extinguished. The amiable Edward afforded a short breathing spell to the advocates of religious freedom; but whatever praises may have been bestowed upon his masculine successor, it must be confessed, that the true principles of protestantism were checked rather than advanced during the long and absolute government of Elizabeth. The *feeble* and tyrannical reigns of the four Stuarts, and the civil wars, afforded better opportunities for the spread of religious freedom. Under the reign of Charles I., New-England was settled, and by the most rigid class of dissenters. The principles of these settlers were that the church was of right independent

of the state ; that each congregation was independent of all others, and enjoyed the right of self government. Those principles followed out to their fair and necessary consequences would have brought them to the immortal and imperishable truth, that man, an immortal being, is accountable to God only for his religious belief ; that, as such, his right to form and express his opinions is imprescriptible, as free as he feels his own thoughts to be, when he retires within himself.

But our ancestors were only half converted to free principles ; their old prejudices closely adhered to them. It is no dispraise to them to admit this ; freedom, that noble principle of action, the natural state of man, not of uncivilized, but of cultivated, enlightened man, is a right slowly comprehended. The French revolution, the revolutions in Mexico and South America prove it ; the slavery which of all others men are the most unwilling to spurn, is that exercised under the cloak of religion. Yes, of that religion, which announces the equality of man, and the freedom of human judgment.

The South American states, declaring most nobly as they have done, that no slave shall exist in their territory, have by their constitutions provided that the Holy Roman Catholick Faith is the established religion of these infant states ! How much more difficult is it then to embrace the sentiments of religious freedom ! Our ancestors, let us admit what our records most humiliatingly prove, were tyrannical and bigoted on religious topicks. But they were not alone in this respect. The Hugonots of France had never the power to show their intolerance, but Luther and his German associates —Calvin and his Swiss friends—the Dutch reformers, and especially the Scotch presbyterians, had most ample opportunities of proving that they did not yield to the inquisitors of Spain in the intolerance, the blood thirsty zeal of their ambitious usurpation. The blood of archbishop Sharpe, himself a *protestant* bishop, will forever be a spot on the robe of the Scottish covenanters, which ages of liberality will not efface.

It is then no reflection on our ancestors to say, that they were not embued with the true spirit of Christian liberty, that they had no correct ideas of the fundamental principles of protestantism. As soon as they were quietly settled in

this country they adopted principles as despotick as those of the church of Rome.

Surely the opposition to the church of Rome was not founded merely on its *abuses*, but on its assumption of the right to bind the consciences of men to all future generations. The doctrines of transubstantiation, of the worship of saints and other absurdities, were (like witchcraft and alchymy) absurdities, which would have fallen (like the doctrine of the revolution of the sun round the earth) by the increasing light of science, and the overwhelming power of the press; but the essential victory of the reformation was over the assumed power of a privileged caste, calling themselves eminently the ambassadors of Christ to dictate to Christians what they should believe of a revelation open to all, and God be praised for it, within the compass of all tolerably educated minds, who piously seek the truth. Yes, this is the *great* triumph of protestantism, that it put the Bible into the hands of the *laity;* this is what has rendered Wickliffe immortal, and has laid a much more solid foundation for Luther's fame than any of his *doctrines*, most of which are already obsolete, and will be soon, we hope, as well as Calvin's, only subjects of history.

But of what use were these translations of the scriptures into the vernacular tongue, if, like the leaves of the sybils, the only expositors are to be the clergy? Are laymen endowed with the gift of reason, that attribute of a spiritual and immortal nature, merely that they may prostrate it at the shrine of men who are themselves fallible? Why propagate the scriptures and publish them in all tongues and languages, if the readers are after all, not to exercise the gift of reason in expounding them, and are to refer to creeds established 200 years since by men, who had just emerged from the errours of popery? No. This will not do.

Our sincere and pious ancestors, for whom no man living has a higher respect than I have, had no just ideas of civil and religious liberty. This is a matter of authentick history; it cannot be a subject of dispute; they persecuted Roger Williams, Mrs. Hutchinson and the Quakers, not with fire and faggot, to be sure, but by banishment. The degree of the punishment did not affect the principle; the

principle *was*, that the scripture is *ours*, that is, the persecutors, the right to explain it is *ours ;* if *you* understand it in a *different* sense, you are hereticks, and we have a right to inflict *temporal* punishments upon you. Thus producing apparent uniformity of faith by *physical* force, they proceeded to enact, that no man should be a freeman, who was not a *church* member, and no man could be a church member, who dissented from any one of their metaphysical opinions! so cloudy and obscure, that not one church member in a thousand could comprehend them. The next step was to take care of the *churches;* and it was provided, in 1648, that no man should vote in the election of a pastor or elder, except church members. From this intolerant law, "the sharpest controversy arose, ever known in our churches," as Dr. Beecher admits, the best possible authority on this subject, though the last we should be disposed to adduce, on any topick which required accuracy. This controversy lasted till 1692, when in an age, be it specially noticed and constantly borne in mind, in an age, when all men were orthodox; when liberal views of Christianity had never been broached in this country or Europe, the natural sense of equity, and the detestation of the slavery imposed on the great mass of landholders who were taxed to the support of religious worship produced an entire repeal, an unqualified repeal of the odious law of 1648, and the whole power of electing pastors was placed, as it ought forever to be, in the same persons who are entitled to civil power, to wit, those liable to taxation. Thus fell at one blow the usurpations of the church, or in other words of the clergy. But the ecclesiastical rulers were not so easily overthrown; the power so long and so fiercely contested, as Dr. Beecher admits, was too sweet and alluring to be quietly yielded; making great efforts at the polls they succeeded the next year in procuring a law giving the church, and the people, a concurrent right of choice, with a mutual negative on the votes of each other. In 1695, the church emboldened by success procured another provision, that whenever the church should have chosen a pastor and the parish rejected him, the pastor elected by the church should be considered the legal pastor, if an ecclesiastical council should so decide. Thus virtually restoring to

the church and clergy all the obnoxious powers of the law of 1648.

This last act was so odious, that it never was enforced in a single case so far as we can find from the day of its date, till the people, for the first time, after the settlement of New-England, assembled for the noble purposes of settling for themselves and their posterity, the principles of a new and free form of government. By the constitution of 1780, they swept away all the vestiges of monarchical and religious tyranny, and restored to the people the natural, inalienable right of electing ("exclusively they expressly declare") their religious instructers. The legislature by an act in 1800, entirely as it seems to me superfluous, since it could add nothing to the force of a constitutional provision, did however by law confirm the *exclusive* right of the people of the several parishes and religious societies to elect their pastors, and swept away by a repealing clause all acts and parts of acts, the devices of ecclesiastical ambition which were contrary to the constitution. Within a few years after this act, confirmatory of the meaning of the third article, the highest courts of law in this state were called upon successively in various cases to settle the true meaning of the constitution on this point, and they have confirmed the rights, the exclusive rights of the members, of all the members of towns, parishes, precincts and religious societies, to elect their pastors without any control, let, hindrance, or impediment on the part of the associations, technically called "churches" in the narrowest and in my judgment anti-christian, and anti-apostolical sense of that term.

Since the recent revival of a spirit of intolerance which has had no example from the banishment of Roger Williams and the murder of Servetus, and the persecution of the followers of Arminius; since a minority of the Christian church calling themselves by way of eminence the orthodox, the evangelical—the only true saints, have undertaken to deny the name and character of Christians to a large body of divines, who, without other motive or inducement than the convictions of conscience, resulting from a most laborious investigation of the Bible itself, had dared to dissent from the early opinions of the first reformers; since these intolerant

men, without consulting the opinions of their parishioners, have refused all intercourse with other Christian teachers of equal piety and learning, and have pronounced that the latter were unworthy of announcing gospel truths from their more hallowed pulpits, the orthodox party have resorted to a novel method of restraining religious liberty. As the courts of law had fixed on immutable foundations the rights of the people, they have resorted to the artifices of legal conveyancing for the avowed purpose of restraining the freedom of thought on the most important of all subjects. The device was this; certain persons, assured, that divine truths cannot possibly be better understood in future ages, than they now are by *themselves*, or than they were 200 years ago by the Westminster assembly in England, have purchased land and built churches, and granted pews, on condition of perpetual servitude and submission. We shall begin with the ingenious and highly laboured conveyance in *trust* of the Hanover Street Church, and after giving an abstract of its clauses, and pointing out briefly its effects, we feel assured, that the whole Massachusetts publick will agree, that a more complete case of moral and religious slavery has never been known, we will not say in *this* age, but since the times of Cardinal Wolsey, or of Stephen Gardiner, of burning and persecuting memory.

"*Extract from the Trust Deed.*

"This Indenture, of three parts, made this 15th day of March, in the year of our Lord one thousand eight hundred and twenty-six, &c.

"*Whereas* a Church of Christ has been gathered, called the *Hanover Church*, the male members of which now in this city, are the parties of the third part hereof; *and whereas* it is intended, by the members of said Church, to maintain in the said House the Publick worship of God, under such Protestant Congregational or Presbyterian Minister of the Gospel of Christ, as the male members of said Church shall from time to time elect, independently and exclusively of such persons as may at any time form a part of the Congregation usually worshipping in said House, although such per-

sons may be proprietors of Pews therein ; to the end that by the blessing of Almighty God, *a succession of holy persons may be elected Pastors of said Church, and the faithful preaching of Christ crucified, agreeably to the general system of Doctrines expressed in the Westminster Assembly's Shorter Catechism, and in the Confession of Faith, owned and consented to by the Elders and Messengers of the Churches, assembled at Boston, May 12th, A.D.* 1680, to be continued in the said House to the latest generations : *and whereas*, after deliberation, it has been thought advisable that the fee in said House and Land should be vested in and held by a number of persons, members of sister Orthodox Churches, in Trust for the said Church of Christ gathered as aforesaid, and for the more perfect protection thereof, according to human judgment.

" *To have and to hold*," *&c.* Then follows a covenant that they are free of incumbrances, &c.

"And it is hereby fully declared and expressly understood, that this sale and conveyance is made upon the trusts and for the purposes hereinafter expressed, and for no other use, intent or purpose whatsoever : *that is to say*, upon this special trust and confidence, that the said parties of the second part, the survivors of them, their assigns and the survivors of them, shall and do permit and suffer so much of the said House and Land, as is designed for Publick Worship, at all times hereafter, to be used, occupied and enjoyed, as and for a Meeting House, or place for the Publick, Protestant Religious Worship and Service of the One Living and True God, Father, Son and Holy Spirit, by the said Hanover Church, and such Society or Congregation as shall regularly attend Publick Worship under the ministration of the Pastor or Pastors, who shall from time to time be elected by the male members of said Church ; and shall suffer and permit such Protestant Congregational or Presbyterian Ministers of the Gospel as the male members of said Church shall from time to time elect and engage, and no others, statedly to preach and to perform religious exercises and services therein ; and shall and will suffer and permit the Deacons, or a Committee of the said Church, to lease the remaining part of said House and Land, and to sell, demise and dispose of,

or covenant and agree for, the having, holding and enjoying the pews or seats in said Meeting House.

"And upon this further Trust, that they the said parties of the second part hereof, and the survivors, their assigns and the survivors of them, shall and will, from time to time, permit the Deacons of the said Church, or any Committee who shall be chosen by the male members thereof for that purpose, to ask, demand, sue for, recover, collect and receive all taxes, rents, issues and profits of said House and Land, and Cellar under the same, and the same appropriate and pay over as the male members of the said Church, at a regular meeting by a major vote thereof, shall order and direct, and to account with, and be accountable therefor, to the said Church only: and also, from time to time, to make such alterations and repairs in and upon said House, as the male members of said Church shall judge to be necessary or expedient, but free from all expense to the parties of the second part hereof:—It being well understood that *no proprietors of Pews, who are not members of the said Church, shall ever have a voice, or be allowed to take any part, or to act in the said business, or in the choice of a Pastor, either directly or indirectly*, and that their title and right, interest and property, in their Pews, shall *ever be subject* to these incumbrances, restrictions and reservations: And also upon this further trust and confidence, that as soon as the Trustees—that is to say, the parties of the second part hereof—shall by death be reduced to the number of seven, or at any time within eighteen months thereafter, that the surviving Trustees shall elect and appoint seven new Trustees, and shall make all such grants and conveyances to them as shall constitute such persons so elected, joint Tenants with the surviving Trustees aforesaid, and in all respects whatsoever co-trustees with them—and so on, from time to time, and as often as the Board of Trustees for the time being shall by death be reduced to the number of seven as aforesaid.

"*And lastly*, it is mutually understood and agreed, and again declared by all the parties hereunto, that the said House and Land are to be and shall be holden by the said parties of the second part hereof, and their associates and successors to be chosen aforesaid, upon the trust and for the

uses and purposes expressed and declared in this Indenture, and for no other use, intent or purpose whatsoever."

I. The first remark we shall make upon this very extraordinary document, the first, we believe, of the kind which has appeared since the reformation, is, that it is an attempt to substitute *legal covenants and contrivances* in the place of the old and shorter process, (we may even say the *fairer* process, because there was no disguise about it) the sharp sword of the soldier and the unanswerable argument of fire and faggot. Lewis the 14th, when he wished to repress the free opinions of our protestant brethren, the Hugonots, mildly and humanely banished them from his dominions. Our protestant brethren of Boston, in the nineteenth century, are simply content with covenants and provisoes, clothed in legal language, by which the future heretick simply *agrees* to surrender his rights of conscience and of thought, on the pain and penalty of forfeiting his property in the Church. The principle is precisely the same; but it must in candour be admitted, that the modern ecclesiastical tyranny has been compelled to modify its penalties by the spirit of the age. Would it be ungenerous to presume, that nothing but the want of power has produced the comparative moderation of the enlightened founders of Hanover Street Church?

II. The second reflection which this novel mode of coercing and restraining the human mind, the freedom with which Christ himself has made us free, is, that it is not an indirect, but a palpable, plain, undisguised attempt, by legal instruments, to defeat the express provisions of our constitution, and the decisions of the highest courts of law within the state, upon the subject matter of these instruments. The constitution and decisions secure to all pewholders, parishioners and others, who support the minister, the right of electing him. It is a natural and reasonable right, founded upon the principles of equality, and of civil and religious freedom, which no convention, or contract, can weaken or destroy. He who supports a ruler, a teacher, or officer of any sort, ought to have the privilege of voting for him. If it is true of the choice of civil rulers, how much more valuable, how much more important and vital, the right to give his

voice in the election of a pastor, on whose capacity, judgment, manners, principles and piety, may depend the moral growth and immortal hopes of himself and of his offspring. Any attempt, by whatever artifice or contrivance, to defeat this right, is a species of treason against the inestimable rights of a Christian. Whether the courts of law shall, or shall not, decide, when the question shall occur, that such covenants against the rights of conscience, are *ipso facto* void, it would be presumptuous in me to say, but I fearlessly say, that such an attempt is adverse to the constitutional rights of the citizen, and subversive of that free enquiry into the scriptures, which is enjoined upon all Christians as a duty, and that it ought as such to be resisted.

III. The third objection against the provisions of this instrument is, that they are a direct contradiction of all their past professions. They have avowed that all they aimed at was the restoration of the rights of the Church to their *concurrent right of election.* Dr. Beecher, in his result on the Groton case, expressly says :—" The effect of conferring upon either the *church* or the *town* the *sole* right of pastoral election had *been ascertained by experiment*, and found to be pernicious." A very strong term, expressing Dr. Beecher's solemn conviction from past history. He proceeds : " It appeared during the controversy on the subject, that both bodies were too powerful in the state, to consist with the *exclusion* of *either* from the right of suffrage in the election of a pastor. The efforts of the *church to hold* and of towns and parishes to acquire, the *sole* power in the election of a minister produced one of the *fiercest* controversies which ever raged in the state, until it was composed by the compromise of 1695." p. 40, *Groton Result.*

Again in pages 41, 42, " It is the *happy expedient of uniting the energies* of the *two corporations*, *civil and religious*, for the support of the gospel, preserving to each its character, *rights* and work, without encroachment and without confusion, which constitutes the peculiarity and the *glory* of the ecclesiastical organization finally established by our fathers. The system consisted in the simple expedient of giving to the church and society *each* a corporate vote in the election of a pastor, rendering a majority of the church

at all times necessary for his settlement. This gave to the church the resources of the town, or parish, for the support of the gospel, and gave stability to our religious institutions, without the danger of civil domination, from which she had *just fled.*" (Alluding to the act of 1692, which gave the whole right of election to the parish at large.) He proceeds in the following sublime tone of rapturous applause, which we shall soon see to be mere sound :—" This system, silent and harmonious as the spheres, and *propitious* as the great laws of nature [materialism !] for eighty-five years sustained the institutions of religion, and *advanced steadily all the great interests*, both of the church and the state." This is indeed lofty and rapturous praise of the change in 1693, which restored the parishioners at large to their natural rights, of which they had been by the church, the narrow, unhallowed spirit of ecclesiastical domination, a spirit confined to no country or age, a spirit, as strong among the Scottish covenanters as on the bench of bishops in England, or in the conclave of cardinals at Rome, constantly and carefully deprived. We should give Dr. Beecher credit, (if we could with integrity) for this outpouring of a natural feeling of justice and love of religious freedom, if we had not before us the decisive proofs that it was mere profession. Before, however, we proceed to our comments on these admissions, let us introduce a further extract, written in the same spirit :—

In page 43, of the same work, the Doctor says :—" Let the churches be authorized to receive the *support* of such civil, or social bodies, upon condition of a concurrent vote with them, in the settlement of a pastor according to the law from 1692 to 1780, and the usage of all orthodox churches to *this* time, and *it is all which they ask*, and which the *cause of religion requires.*"

There are many other passages to the same effect, which we forbear to quote, because we are truly sickened at heart with such professions, when contrasted with the despotick provisions contained in the indentures of trust, which we have just recited. Will it be believed, could it for one moment be admitted as possible, that any man would pronounce such an eulogy on the advantages of admitting all the parish-

ioners to a concurrent right of election, at the very moment, that the church over which he had been installed the pastor had by the most rigorous provisions excluded all non-communicants from any voice, not only in the election of pastor, but in the peculiar *civil* right of fixing his salary, and of imposing taxes? Could Dr. Beecher flatter himself that the secret would be kept, or that the contradiction between the professions and the practice of the orthodox party would not be exposed? We do not ask Dr. Beecher to reconcile these contradictions, but we call upon the more able and moderate portion of the Calvinistick party to explain these apparent inconsistencies. It should be remembered that the passages above quoted are not the language of Dr. Beecher only, but of Dr. Porter of Andover, and Mr. Fay. That the report was afterwards submitted to a council, adopted, and the whole proceedings officially signed by Dr. Porter, as moderator. The following orthodox divines formed that council, Dr. Puffer of Berlin, Dr. Porter of the Theological Seminary, Dr. Beecher of Hanover Street Church, Rev. David Palmer of Townsend, Rev. Warren Fay of Charlestown, Rev. Samuel H. Tolman of Dunstable, and Rev. George Fisher of Harvard.

Now we ask the inventors of this new mode of binding consciences, why they vested the *sole power of election* in the church, if, as these learned divines declare under the solemnities of religion such a mode of choice had been *ascertained* to be "*pernicious*"—"if the effort of the church to *hold*, and of towns and parishes to acquire the sole power in the election of a minister had produced one of the *fiercest* controversies which ever *raged* in the state?" Did the authors of this deed of trust wish to revive such controversies, and to restore an usage found to be so pernicious? Why did they not allow a concurrent right of election, which the divines above mentioned, declare to be "a happy expedient of uniting the energies of civil and religious bodies for the support of the gospel;" an expedient which they so rapturously praise as being "silent and harmonious as the spheres and propitious as the laws of nature, and which had advanced steadily all the great interests of the church and the state?" Why not suffer the pew holders to have a voice in the elec-

tion of the pastor whom they are bound to support, and (what is of infinitely more value) whose ability and power to expound and to enforce the truths of our holy religion may be of infinite importance to their immortal souls? Or do these gentlemen deny, that christians who are not of the church have any souls, or if they have, do they contend that it is of little moment to them by whom or in what manner they are instructed? Why (we repeat) deny to pewholders all right to vote in the election of their teacher, when it is expressly declared in our last extract from the Groton result, "that the concurrent right of choice is all which *they ask*, and which the cause of religion *requires?*" You have done then a work of gratuitous and supererogatory restriction—of wanton and uncalled for violence to the rights of conscience more than the most orthodox "ask, or than the cause of religion requires."

The whole matter was in your hands; you were creating a new legal being. If your conveyance is valid as it stands, it certainly would have been so, if it had been more just and liberal. It would have been, in my judgment, safer, because much less likely to be drawn into question.

Why then was it done? Are we to infer that this is the true orthodox spirit? That they are not satisfied with *necessary* powers, all that are requisite for the cause of religion, but they must have the entire submission of the soul?

We have a right to infer from this single fact, this restoring the church to the "pernicious" powers conferred by the act of 1648, which produced "the sharpest controversy that ever raged in the state," that if the orthodox party had now the civil power in their hands, for which they have shown of late a great hankering, they would give to all the other churches in the state the same exclusive powers which they have bestowed on this creature of their intolerance. Nay more, we have a right to infer that they would not permit a man to vote in civil concerns unless he was a church member, because they have not only vested their church with the same but much greater powers than the old churches enjoyed in 1648. Their church can fix the salary and tax the pews without consulting their owners. Will it be believed that the children of the men who rather than submit

to a penny half-penny tax on tea, threw away the scabbard and dared to the combat the mightiest nation on earth, could be brought to accept a title which has surrendered the power of taxation to a body in which they are not represented, and has deprived them even of the right of thought? In the course of our reading we have met with one case somewhat analagous, though in some respects worse. In one of the southern provinces of France there existed a little monastery, whose lands were granted on a singular tenure—whoever bought or took a lease of them became by that act, *ipso facto*, they and their posterity bondmen and bondwomen of the monks—that was physical slavery—this is mental submission. There is this difference in favour of the Hanover Street title, that you may sell your property, and get rid of your servitude, if you can find a purchaser, so humbled and bowed down under theological influence and prejudices as to accept a title which declares him incapable of judging for himself as to the principles, character, manners and talents of his religious teachers. Is this then the consolation offered to the children of these pew holders, when they repent of their fathers folly, and are denied their natural rights, that they may sell their pews?

We shall reply in the language of Dr. Beecher, whose writings are a most fertile source of argument to his *opponents*. See *Groton Result*, page 44.

"It may be thought that there is no intolerance, nor persecution in this, because the church, if not pleased with the pastor elected by the town has liberty to leave the sanctuary of her fathers, and the funds which their piety consecrated, and go out, and build for herself and settle and support a minister of her own choice. But so archbishop Laud might have said to the puritans, 'if you cannot conform to our ceremonies, it is no encroachment on your liberty of conscience to require it, because the world is wide and you can leave your sanctuaries and funds and go out to the American wilderness and establish organick churches there and settle ministers, and manage worship to your hearts content.' But our fathers thought it intolerance, that they might not enjoy, *where they were*, the liberty wherewith Christ had made them free." So far the orthodox Groton council, and

changing the word "church" for "society," it is the answer we should make to the offer of selling out, if the church by a majority of one should settle a minister against the nearly unanimous wish of the pew holders; such cases have happened and may happen again. But the devisers of these deeds of trust may say, that we have no idea or wish of propagating controversies; "true, there were anciently controversies of the most furious character on this subject, even when the town had the purse strings as a check upon the church, but in our happy congregation, there can be no difficulty, because the church holds both the purse and the power. The church thinks and decides for the people, and is not that a great consolation and privilege to the pew holders? When ministers are preaching on probation, there are diversities of opinion in common parishes as to their talents, their mode of preaching, and their doctrines—these diversities of taste and judgment produce disputes and frequently parties; now, if the people have nothing to do with the choice, they will never trouble their heads about it—there will be nothing but peace and harmony—it will be as quiet as an army—you seldom or never hear of turbulence there, except that—now and then the legions rise and murder their chief—cast your eyes through all Christendom, there is scarcely a spot in which the right of the people to choose their spiritual guides is recognised. The 100 millions who acknowledge the supremacy of the pope have no voice in the selection of their teachers, nor have that sect possessed that privilege for 1500 years, and yet what a delightful calm, what sweet Christian peace have they enjoyed. We acknowledge that the peace might not have been so profound if they had been indulged with the use of the scriptures. Look again at the English church, a nobleman either sells or stakes an advowson or right of presentation to a church at a gaming table or at a horse race, and the winner sends his brother to take possession of the benefice. Yet all is quiet; the people recognise the authority so honourably obtained;—even in Scotland, these descendants of the sturdy covenanters make no pretensions to the right of choosing their own pastors. They dutifully submit to their ecclesiastical *betters*, and take such preaching as the general assembly think suited to their *capacities*. There is

but one spot in the globe, and in that only within 50 years, in which the people ever possessed the right of election, and these privileges they have abused by choosing heretical teachers, and in this vicinity, men, who are in our opinion not Christians." Such we may suppose, would be the sophistical arguments, by which these trust deeds would be defended. To which I beg leave to reply briefly, that it is precisely because there is but one sunny spot in all Christendom; one narrow tract of earth in which a Christian people possess the primitive liberty enjoyed by all Christians in the apostolick age, that I would defend it against open or insidious assaults at every peril. It matters not to me, by what means the old spirit of clerical usurpation is revived, whether it be by legislative provisions or legal contrivances, I would expose their projects and oppose them by every lawful and constitutional weapon. As to the suggestion, that they do not expect resistance and fierce controversies in their new churches, it is not true; if they had not expected resistance, they would not have multiplied the means of suppressing it, and stifling all opposition. Why commit the new church to the care and supervision of its sister churches? Was the new church unable to take care of itself? Such were not the principles of the old congregationalists. The title to their very edifice is vested absolutely in brethren of sister churches! Sister spies, rather, who are to watch over the opinions and measures of this society—to preserve it pure and uncontaminated from any heresy—to see that its creeds and its preaching do not swerve from a single dogma of the Westminster assembly—that not a single ray of divine truth shall enter its walls, except through the prism of Calvinism; and if the church and people should both prove refractory, then these brethren of other churches, in whom the *fee is vested*, may turn them all out, and preserve the edifice for the true church!

But the defenders of this deed of trust may say, the purchase of pews is wholly *voluntary*—every man who purchases a pew, does it with a perfect knowledge of his disabilities, why then do you treat it as a measure leading to ecclesiastical despotism? We doubt the fact whether the owners of pews *generally* were aware of all the humiliating disabili-

ties to which they were subjected ; but if they were, what becomes of their free born children? they inherit the pew, and have never assented to such a surrender of their personal rights; could their father, as their "federal head," bind his posterity to all future generations justly and equitably? The feudal tenures were all *voluntary;* from father to son, they were renewed by voluntary payment of fines upon admission of the heir. But did the peasantry of France scatter to the winds, with *less frantick joy*, the parchments, which contained the evidences of their servitude, or with diminished vengeance, set fire to the chateaux of their feudal lords, because the *original* conveyance was *voluntarily* accepted? Will any man pretend, that if upon Dr. Beecher's decease or dismissal, there should be a serious schism between the pew holders and the church, that the former would submit with a better grace to the domination and supremacy of the church, because the purchase of pews was voluntary? No. Whenever the dissension breaks forth, and happen it *will*, and *must*, we shall witness one of the sharpest controversies in the orthodox societies thus bound down by legal cords, which was ever seen in New-England, a controversy which will be the more bitter, in proportion to the length of time, in which the galling servitude shall have been endured.

It would have been surprising to us, if we had not carefully traced, with indignant feelings, the incessant attempts, by force or subtlety, from the early ages of the church down to this day, to deprive men of their Bibles, (for to deny them the free right of putting their own constructions upon the scriptures, is a mockery more provoking than taking them away) ; it would have been surprising to us to find men in the 19th century striving, by parchment provisions, to settle what opinions other generations shall hold in the 20th ! ! One would have supposed, that the history of protestantism would have taught them the utter vanity of such presumptuous assumption of powers, which belong only to God. Let us point the reader to that proud pile, the magnificent mausoleum of the aspiring Wolsey, Christ Church Oxford. How many able and subtle lawyers were nobly compensated, for drawing up the charter and statutes of that *Catholick* college ! How many prayers were to be offered

daily to the Virgin, the Apostles, and to *all* the Saints! Yet the body of the deceased founder was scarcely cold, before the professors in *his Catholick* college were declaiming against the pope, and all the mummeries of catholick superstition! But we need not send our readers to the elder world, we have instructive lessons at home; look at the fate of the Hugonot Calvinistick church in South School Street. *That too* had its *private deeds* of *trust and uses*, which I remember to have seen; but vain are human efforts to give stability to any thing in this world, much less to limit human opinions. In the short space of one century that church passed successively from a Hugonot Calvinistick Society, to its persecutors a Roman Catholick one, and finally into the hands of the Universalists. But there is a still stronger example in the history of the opinions of the whole Massachusetts people. Two centuries ago, and not a sectarian could be endured; a quaker and an anabaptist were an abomination; *now* the baptists are leagued with the orthodox, and are nearly as numerous as the whole body of Congregationalists, while the Universalists are treading hard upon the heels of both. In 1728, (one century ago,) there was probably not a Congregational minister who was not a Calvinist; perhaps some half a dozen individuals began to favour the Arminian doctrines, in secret, and were called moderate Calvinists—now at the close of the century, probably one half of all the Congregational clergy reject the Calvinistick doctrines altogether, and nearly that number either reject or doubt the Holy Roman Catholick *Athanasian creed*. By what means has this happy reformation been effected? By the silent but sure progress of free enquiry; and can you hope to stop it by depriving men of the management of *their own* property? Is the human mind to be softened and subdued, or restrained by acts of injustice?

This brings me to the fourth and last enquiry. Has not a man, or a body of men a right to found a church for the maintenance of any religious opinions, and impose what restraints he or they please? To be sure they have; a man may found a mosque, a synagogue, or even a temple to Juggernaut. He may provide for what mode of worship he pleases, provided it is not revolting to publick feeling. He

could not oblige a wife to throw herself on the funeral pile of her husband, nor prescribe, that worshippers should be crushed under the wheels of the Idol's car. In such a case the laws would interfere. But we do not perceive that Messrs. Tappan and Walley, the parties of the first part, were the FOUNDERS of this church, nor that they had any moral or equitable right to impose such restraints on a society of which they were *not members*—I avoid touching the legal question. I presume that Messrs. Tappan and Walley were not the founders, because it is provided, I learn, that if the trust from any cause fails, the property is to enure to the benefit of the *pew holders.* I infer it, also, from a clause which prohibits the pew holders from suing for partition, which would not be necessary, if they were not the *owners.* If this be so, the proprietors of pews in Hanover Street Church are morally and equitably as much the owners of that church as the pew holders of other societies are respectively of their churches. No valuable consideration ever passed from Mr. Tappan and Mr. Walley, or from the trustees of sister churches, parties of the second part, to the proprietors of the pews for the surrender of their perfect rights over this edifice. Let us suppose a case, that both the church and pew holders should become Unitarians without a dissenting voice, ought Mr. Walley's and Mr. Tappan's trustees to have the power of turning them all out, if they elect an Unitarian teacher? Yet I see not why they may not by the terms of the deed of trust—I can see no moral or equitable ground for the creation of such a despotick power. If Messrs. Tappan and Walley had no moral and equitable right to impose such conditions, I should be pleased to know whence they derived their commission to settle upon unborn generations, a creed, agreed to many generations ago, with much difficulty, and with many misgivings, in an age run mad with metaphysical subtleties? Surely they can lay claim to no evangelical or apostolick authority, for both the gospel and epistles are positively against such usurpations. They have not the flimsy pretext of antiquity which is set up in favour of councils, synods, general assemblies, associations, and consociations. Does their power repose on direct Divine aid and illumination by which they were as-

sured that the creed of the Westminster assembly contains the *true* meaning of the Divine revelation? We presume they will not pretend it; we fear that the highest authority which they can cite for such an intermeddling with the consciences of "future generations," will be found to be the New-England Vatican.

Lastly, it may be asked what right have *you* to interfere with the concerns of this church? to which I reply, that I have at least as good a right to plead the cause of the *future dissentients*, and to vindicate their gospel rights, as Messrs. Tappan and others had to deprive them of them. I might add, that my right to examine into, and criticise the conduct of the orthodox party is as great, and as fair, as the right of the orthodox clergy, at all times, in publick and private, in the pulpit, and through the press, to speak of my religious creed, and of my religious friends and teachers with scorn and contempt—to deny them the Christian character, and to endeavour to bring upon them the aversion and distrust of the less informed classes of society;—but I despise, and disavow *such* motives of action. I feel, that I have nobler purposes. Slavery, whether of the body or the mind, is an infectious disease. It is a moral leprosy which taints, and infects the surrounding air; cold and indifferent must be that man, who sees such a moral pestilence in his vicinity, and does not exert his whole energies to prevent its spread. "I am a *man*, said an illustrious Roman, (once a slave) nothing which touches human nature is *foreign* to me." Shall a Christian, born free, entertain a sentiment less noble? God and Christianity forbid it.

END.